

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-CR-113

JAMES P. THEYERL,

Defendant.

ORDER

Defendant James P. Theyerl has filed a motion for emergency reconsideration of his request to be given credit toward his sentence for time spent at his home under electronic monitoring. He notes that in my order denying his motion, I held that he was not entitled to credit for time spent on electronic monitoring prior to his sentence because he was not in custody. In his motion for reconsideration, Theyerl claims he should be given credit for time on electronic monitoring after sentence was imposed but before he reported to the Bureau of Prison for confinement. The government opposes Theyerl's request, noting that the issue is identical to the one made in his original motion.

I agree. Theyerl was not taken into custody immediately after his sentencing, but was allowed to report to prison as instructed by the Bureau of Prisons. Pretrial release conditions continued until he reported to begin serving his sentence. Thus, he was not in official custody serving a sentence for purposes of 18 U.S.C. § 3585(b) prior to the time he reported to prison. For

this reason, and for the reasons stated in my original order denying Theyerl's request for sentence credit, his motion for reconsideration is denied.

SO ORDERED.

Dated this 5th day of June, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge